

Conservation Commission Meeting Minutes
July 13, 2011

Members Present: Louis A. Napoli, Chairman; Joseph W. Lynch Jr.; Albert P. Manzi, Jr.; Sean F. McDonough; Douglas W. Saal; Deborah A. Feltovic (arrived 7:25 p.m.).

Member Absent: John J. Mabon, Vice Chairman.

Staff Members Present: Jennifer A. Hughes, Conservation Administrator; Heidi M. Gaffney, Conservation Field Inspector; Donna M. Wedge, Conservation Secretary, and Corey Lynch, intern with the Conservation Department.

Pledge of Allegiance

Meeting came to Order at: 7:11 PM Quorum Present.

General Business

242-1238, 29 Anne Road (Duffy) (Merrimack Engineering Services, Inc.) (cont. from 6/22/11)

- Stephen E. Stapinski of Merrimack Engineering Services, Inc., Megan & Jay Warner of 18 Phillips Common and Steven Hinkley are present.
- The field inspector states that this was an in-ground pool, cabana and patio project issued an Order of Conditions on 4/21/04. The double after the fact modification fee has been paid.
- Mr. Stapinski discusses the originally permitted plan and the differences between the proposed and the as-built plans and discusses the proposal for mitigation for the increase in impervious area. The applicant proposes to direct the roof runoff from the pool cabana to the leach field which is no longer in use, due to the property now being tied into the sewer system.
- Mr. Manzi states that on one of the monitoring reports it was stated that there should be an amendment submitted to Conservation Commission for the change in the grading and for the boulder retaining wall and this was never done.
- Mr. Lynch states the calculation numbers are not correct.
- Mr. Stapinski states that the calculations have been revised and copies were delivered to the conservation department.
- Mr. Manzi asks what the cabana roof size is.
- Mr. Stapinski states it is 20' by 24' and states that a portion of the brick patio can also be captured and infiltrated as well if needed.
- Mr. Stapinski states the calculations were based on the capacity of the leaching system.
- Mr. Lynch states that it appears that the leaching field is adequate to infiltrate the runoff.
- Mr. Saal states that some of the water will infiltrate naturally.
- Discussion of the portion of the patio that is within the 50' No-build zone ensues.
- Commission requests that the portion of the patio within the 50' No-build zone be removed.
- A motion to grant the modification with new submittal of drainage calculations, and allow for the installation of the infiltration piping to capture the cabana roof area and removal of the portion of the patio that is within the 50' No-build zone is made by Mr. Lynch, seconded by Mr. Manzi.
- Vote unanimous.
- *Documents:*
 - *Revised letter requesting a modification dated 6/28/11*
 - *Revised infiltration drainage Calculation dated 7/7/11*

- *Revised modification plan titled “Plan to Accompany Modification to Order of Conditions in North Andover, MA 01845”, prepared by Merrimack Engineering Services, dated 6/23/11, revised 7/6/11*
- *Photos taken 5/18/11.*

242-1494, COC Request, 351 Willow Street (Muffin Realty Trust) (The Neve-Morin Group, Inc.)

- The administrator states that a site visit has been conducted. The erosion controls were in place at the time of the site visit but have since been removed. The project is in compliance with the Order of Conditions and proposed plan. The stormwater system was cleaned last year and reinspected this year but did not require additional maintenance. One parking area spot adjacent to Willow Street that was noted on the plan to be removed is still in place, however the removal only involved re-stripping the parking lot and not the actual removal of the pavement.
- A motion to issue the COC and release the bond is made by Mr. Manzi, seconded by Ms. Feltovic.
- Vote unanimous.
- *Documents:*
 - *Letter from The Neve-Morin Group, Inc dated 6/27/11,*
 - *WPA Form 8A-Request for Certificate of Compliance dated 7/1/11,*
 - *Plan titled: “As-Built Site Conditions” dated 6/24/11, prepared by The Neve-Morin Group, Inc.*

Modification Request, Lot 22 Empire Drive (Orchard Village, LLC) (Christiansen & Sergi, Inc.)

- The applicant Robert Messina of Orchard Village, LLC is present.
- The administrator states that the proposal is to add an 8' x 37' addition to the existing asphalt driveway portions of which are in the buffer zone. This lot was permitted under an RDA previously. The applicant has stated that there is sufficient storage volume for the increased impervious area of approximately 296 s.f.
- Mr. Lynch states that he recalls that there is a narrow window of excess storage volume.
- Mr. Messina states that he believes there is approximately 20% available for excess storage volume.
- The administrator discusses the alternatives such as porous pavement.
- The commission discusses allowing the additional parking area to be porous pavement.
- A motion to issue the modification using porous pavement with gravel underneath is made by Mr. Lynch, seconded by Ms. Feltovic.
- Vote unanimous.
- *Documents:*
 - *E-mail letter from Christiansen and Sergi, Inc. dated 7/12/11 requesting a modification*
 - *Sketch titled “Orchard Village, Proposed Driveway Expansion, Lot 22”*

Enforcement Order Ratification

242-1478, 1503 Osgood Street (Hera Development Corporation) (MHF Design Consultants, Inc.)

- The applicant Nicholas Halal of Hera Development Corporation is present.
- The administrator states that after repeated requests to construct the slope in accordance with the Order of Conditions, the chairman approved the issuance of an Enforcement Order. The slope was proposed to be constructed in lifts with riprap and silt socks after each course. This was never done despite repeated reminders and now the slope is fully constructed with no stabilization. The erosion controls at the base of the slope have recently been dug out as sediment nearly overtopped them. In addition, site monitor has twice left due to breach of contract. The monitor is back on the job at this time.

- Mr. Napoli discusses the history of the site and the ongoing issues with the slope, and states that the commission needs to see a proposal to fix the slope.
- Mr. Lynch states the Conservation Commission has done many site visits to check that work is being done in compliance with the Order of Conditions and the work has not been done in compliance. If things don't improve and the slope is not dealt with the commission can seize the bond and shut the project down and the commission would have to hire someone to fix the mess on this site. There could be fines of \$300 per day if site is not stabilized.
- Mr. Lynch and Mr. Saal discuss the slope and how it could be fixed.
- The commission discusses the history of the site to this point.
- A motion to ratify the Enforcement Order with fines of \$300 per day beginning on 7/6/11 and until a modification is submitted addressing the slope and bringing the site into compliance is made by Mr. McDonough, seconded by Mr. Manzi.
- Vote unanimous.
- Nicholas Harel discusses the site and the compaction that has been done. He discusses the stabilization that is proposed with matting and rip-rap.
- Mr. Manzi states that the Enforcement Order needs to be served to Nicholas Heras as the owner.
- *Document:*
 - *E-Mail letter from Christopher M. Tymula of MHF dated 7/8/11.*
 - *Enforcement Order*

Small Project

NACC#86, 315 Turnpike Street (Merrimack College) (Huntress Associates, Inc.)

- The applicant Robert Copolla, Director of Facilities for Merrimack College, and Christopher C. Huntress of Huntress Associates, Inc. are present.
- The administrator states that the proposal is to re-sod and re-seed the soccer field at Merrimack College. Under an Order of Conditions issued file# 242-1252 this field was permitted to be an artificial turf field. This work was never done in this location. A COC should be obtained to close out the file. A fence was part of the Order of Conditions for the turf field and this will be done as part of this small project.
- Mr. Huntress states the Soccer field was actually built on the Andover side of the campus, and discusses that the field in question for this small project has not changed.
- A motion to accept this project as a 4.4.2.J is made by Mr. McDonough, seconded by Ms. Feltovic.
- Vote unanimous.
- A motion to allow the project as proposed as a small project with conditions of wetland makers on the fencing and pre and post-construction meetings is made by Mr. McDonough, seconded by Mr. Lynch.
- Vote unanimous.
- *Documents:*
 - *Application Checklist-Small Project,*
 - *Small Project Procedures,*
 - *Plan titled "Athletic Field Improvements" prepared by Huntress Associates, Inc., dated 6/23/11*
 - *Soccer Field Renovation Locus Plan submitted at meeting 7/13/11,*
 - *Photo taken 7/13/11*

Public Hearing at: 8:35 PM

Request for Determination of Applicability

1094 Salem Street (Miller) (NCS, Inc.)

- Mr. Saal reads the legal notice.
- The applicant Richard Miller & Susan Miller of 1094 Salem Street, and Mark Delgreco of NCS, Inc. the landscaper are present.
- The administrator states that this project would likely be simpler if it had not been started without a permit. The applicant proposes to decrease the size of the deck. The plan shown was done for DEP File #242-1266 which was permitted for a new septic system at this property.
- The Conservation Commission discusses a permanent barrier of farmers stonewall, fencing or boulders with wetland markers.
- Mr. Manzi discusses that there should be a condition in the DOA of a permanent barrier to be agreed upon by the administrator and the homeowner at a site visit.
- A motion to issue a Negative Determination #3 is made by Mr. Manzi, seconded by Mr. Lynch.
- Vote unanimous.
- *Documents:*
 - *Application Checklist-Request for Determination of Applicability,*
 - *WPA Form-1 Request Determination of Applicability and associated documents*
 - *Plan titled "1094 Salem Street, Assessors map 106A, Parcel 57", deck sketch drawn in, submitted on 6/30/2011.*
 - *Photos taken 7/7/11.*

Notice of Intent (NOI)

**242-1504, 140 Academy Road (Patenaude) (Andover Consultants, Inc.) (cont. from 6/22/11)
(Request to cont. to 7/27/11)**

- The administrator states that this project is still in front of the Planning Board for Stormwater Management Permit and the applicant is requesting a continuance to the July 27, 2011 meeting.
- A motion to grant the request for a continuance to the July 27, 2011 meeting is made by Mr. McDonough, seconded by Mr. Manzi.
- Vote unanimous.

242-1492, 1679 Osgood Street (GMZ Realty Trust) (Jones and Beach Engineers, Inc.) (cont. from 6/22/11) (Request to cont. to 8/10/11)

- The administrator states that the applicant is requesting a continuance to allow time for Eggleston Environmental to review the project.
- A motion to grant the request for a continuance to the August 10, 2011 meeting is made by Ms. Feltovic, seconded by Mr. Manzi.
- Vote unanimous.

242-1522, 20 Rosemont Drive (Gyorda) (Sullivan Engineering Group, LLC) (cont. from 6/22/11)

- The applicant Peter Gyorda of 20 Rosemont Drive is present.
- The administrator states that the applicant was considering removing stumps and adding a retaining wall but has decided to proceed with the proposal as given at the 6/22/11 hearing and just grind the stumps.
- A motion to close the hearing and issue a decision within 21 days is made by Mr. Manzi, seconded by Mr. Lynch.
- Vote unanimous.

242-1523, 273 Berry Street (Quimby) (Christiansen & Sergi, Inc.)

- The legal notice is deemed read.
- The administrator states that the proposal is to raze and rebuild. The wetland line was reviewed and some changes have been made. A new plan will need to be provided. The project is in priority habitat and NHESP comment is still pending. There is also a potential vernal pool on the property. The applicant has requested a continuance to gather more information and prepare a new plan.
- A motion to grant the request for a continuance to the July 27, 2011 meeting is made by Mr. Manzi, seconded by Ms. Feltovic.
- Vote Unanimous.
- No abutters are present.
- *Documents:*
 - *Completed WPA Form3- Notice of Intent and associated documents*
 - *Plan titled " Notice of Intent Plan", prepared by Christiansen & Sergi, Inc., dated 6/30/11*
 - *Delineation report prepared by Norse Environmental and dated 6/30/11*
 - *USGS Streamstats dated 7/8/11*
 - *Photos taken 7/11/11*

242-1513, 1600 Osgood Street/285 Holt (1600 Osgood Street, LLC) (Epsilon Associates, Inc.) (cont. from 6/1/11)

- Jeffrey Goldstein of 1600 Osgood Street, LLC; Julie Vondrak of Epsilon Associates, Inc.; Scott Emerson, Manager of 285 Holt Road (Wheelabrator) and J R Frey, P. E. of Brown and Caldwell are present.
- Ms. Vondrak reviews the proposed changes and gave an overview of the project.
- Mr. Frey states that Wheelabrator will be filing a Notice of Intent for the stormwater management plan (O & M) for 285 Holt Road.
- A motion to close the hearing and issue a decision within 21 days is made by Mr. Lynch, seconded by Ms. Feltovic.
- Vote unanimous.
- *Documents:*
 - *Supplemental Information-Ozzy Properties Heated Water Loop System (Mass DEP File No. 242-1513),*
 - *Plans titled "Notice of Intent, Hot Water Loop System, 286 Holt Road / 1600 Osgood Street, North Andover, MA", prepared by R.G. Vanderweil Engineers, Inc., dated 10/19/10, revised 6/27/11*
 - *Letter from Epsilon Associates, Inc., titled "Supplemental Information – Ozzy Properties, Heated Water Loop System (MassDEP File No. 242-1513)", includes O&M Plan, dated 7/6/11*
 - *Letter from JR Frey, P.E. CPESC, Brown and Caldwell, dated 6/30/11*

242-1519, 1-120 Millpond Townhouses (Verizon) (Resource Control Associates) (cont. from 6/1/11)

- The applicant Robert Coultres of Verizon, Victor Gleason of Verizon, Kevin Fetzor of Ecotones, Inc., Joseph Klinger of Ecotones, Inc., Julie V. Freshman of Resource Control Associates Inc., and Robert Atwood of Resource Control Associates, Inc. are present.
- The administrator reviews the new materials that have been submitted and discusses that the alternatives analysis is not adequate.
- Mr. Lynch states that he was not present for the previous meeting but has reviewed all the materials and is able to participate in this discussion.

- Mr. Atwood reviews the project and discusses the alternatives to the lines which have been installed within the 25' No-Disturb Zone. He discusses the details of the cable installation process and recommends leaving the lines in place.
- The administrator discusses that any future maintenance would also be occurring within the 25' NDZ.
- Mr. Atwood states that maintenance may or may not be needed in the future.
- Mr. Manzi discusses fiber optic cable with the representatives from Verizon, and that if the cable needed to be replaced in the future it would be within the NDZ.
- Mr. Lynch states that there are areas where the cable/conduit can be moved to be outside of the 25' NDZ and that there are only a few areas where it cannot be moved.
- Mr. Saal asks about the effect of the area being previously disturbed on the filing.
- Mr. Manzi states that the lines which can be moved out of the 25' NDZ need to be moved and that the existing conduit can be abandoned in place where it is within the NDZ.
- Mr. Saal and Mr. Manzi discuss why it is important to maintain the 25' NDZ.
- The applicant requests a continuance to the next meeting on July 27, 2011.
- A motion to grant the request for a continuance to the July 27, 2011 meeting is made by Ms. Feltovic, seconded by Mr. Lynch.
- Vote unanimous.
- *Documents:*
 - *Plan titled: "Existing Conditions Plan – Millpond Townhouses", prepared by Thompson Farland Professional Engineers / Land Surveyors, dated July 1, 2011, revised July 15, 2011*
 - *Notice of Intent Addendum – Verizon, prepared by Resource Controls, Dated July 5, 2011*
 - *Letter from Division of Fisheries & Wildlife, Re: Certified Vernal Pool #771, North Andover, dated June 30, 2011*

Request for Determination of Applicability

General Permit (Verizon) (Resource Control Associates) (cont. from 6/1/11)

- The applicant Robert Coultres of Verizon, Victor Gleason of Verizon, Kevin Fetzor of Ecotones, Inc., Joseph Klinger of Ecotones, Inc., Julie V. Freshman of Resource Control Associates, Inc., and Robert Atwood of Resource Control Associates, Inc. are present.
- Mr. Saal reads the legal notice.
- Ms. Freshman presents the project and discusses the request to waive the abutter notification requirement.
- Mr. Lynch states that the request to waive the abutter notification requirement seems reasonable.
- Mr. Saal recommends placing an article in the newspaper in addition to the normal legal ad.
- A discussion about the abutter notification waiver request ensues.
- Ms. Freshman discusses the Request for Determination of Applicability application.
- Mr. Manzi asks how the wetland lines have been determined.
- Ms. Freshman states that they were determined by a combination of GIS and on the ground sight delineations by Ecotones, and states that no private property was entered to determine actual edge of wetland.
- Verizon discusses the need to do the conduit and run the lines as shown on the plan due to the need to connect to existing boxes and stay within the grant of locations.
- The Conservation Commission discusses that the applicant should be filing a Notice of Intent for this project because a Determination of Applicability does not provide the commission with adequate oversight.
- The Conservation Commission discusses the on the ground sight delineations and how accurate the delineation is.

- Mr. Klinger of Ecotones, Inc. discusses how the on the ground delineations have been done as well as the delineations done using GIS.
- The commission discusses that they will accept the filing as is as far as the plans are concerned but that a Notice of Intent needs to be submitted and that the work can only be permitted by issuing an Order of Conditions to properly protect the wetland resource areas.
- The commission and the applicant discuss the procedure for filing a Notice of Intent.
- The applicant requests a continuance to the July 27, 2011 meeting.
- A motion to grant the request for a continuance to the July 27, 2011 meeting is made by Ms. Feltovic, seconded by Mr. Lynch.
- Vote unanimous.
- *Documents:*
 - *Application Checklist-Request for Determination of Applicability,*
 - *WPA Form 1-Request for Determination of Applicability and associated documents,*
 - *Plan of Proposed Areas dated 6/22/2011,*
 - *Detailed Plan of Proposed Work Areas plan size 11' x 17' dated 6/22/2011,*
 - *Construction Schedule and Sequence,*
 - *Waiver Request abutter notification.*

Decision

242-1522, 20 Rosemont Drive

- The field inspector reviews the drafted Order of Conditions.
- A motion to accept the Order of Conditions as-drafted is made by Mr. McDonough, seconded by Ms. Feltovic.
- Vote unanimous.

***A motion to adjourn the meeting at: 10:45 PM made by Ms. Feltovic, seconded by Mr. Lynch.
Vote unanimous.***